

SEP 28 2006

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Attention: MAIL STOP PETITION

Phone: (571) 272-3873

Group Art Unit: 2137

Examiner: Minh Dieu T. Nguyen

Pages: Cover + 1 + 2 = 4

Date: September 28, 2006

From: Georgann S. Grunebach

Fax: (310) 964-0941

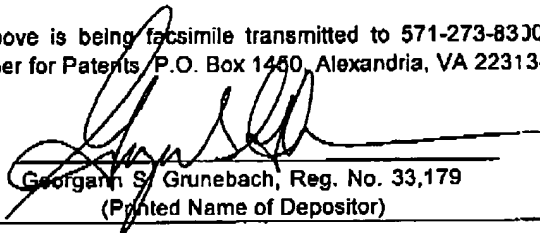
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Georgann S. Grunebach, Reg. No. 33,179
(Printed Name of Depositor)

September 28, 2006
(Date of Signature)

Re: Serial No. 09/621,476

Attorney Docket No PD-200043

Filing Date: July 21, 2000

Title: SUPER ENCRYPTED STORAGE AND RETRIEVAL OF MEDIA PROGRAMS IN A
HARD-PAIRED RECEIVER AND STORAGE DEVICE

Please find attached:

- TRANSMITTAL FORM PTO/SB/21 (1 page)
- PETITION UNDER 37 CFR 1.182 (2 pages)

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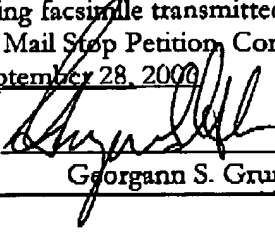
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Raynold M. Kahn et al.	Examiner:	Nguyen, Minh Dieu T
Serial No.:	09/621,476	Group Art Unit:	3684
Filed:	July 21, 2000	Docket:	PD-200043
Title:	SUPER ENCRYPTED STORAGE AND RETRIEVAL OF MEDIA PROGRAMS IN A HARD-PAIRED RECEIVER AND STORAGE DEVICE		

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to (571) 273-8300 (Centralized Facsimile Number), addressed to Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on September 28, 2006.

Date: September 28, 2006


Georgann S. Grunebach, Reg. No. 33,179PETITION UNDER 37 C.F.R. §1.182

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Petition is being submitted in accordance with M.P.E.P. §1002 to invoke the supervisory authority of the Director under 37 C.F.R. §1.182 involving an ex parte action in the above-identified patent application.

Claims 1-2, 11-12, 14, 16, 23-26 and 35-36 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1, 10, 17-18, 28, 36, and 44-50 of co-pending application 09/620,772 in the Office Action mailed July 14, 2006. On October 5, 2005, the Applicants filed a terminal disclaimer to obviate the double patenting rejection.

However, MPEP § 804 (I)(B) states:

The "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in >at least< one of the applications."

Serial No. 09/621,476

And MPEP § 804 (I)(B)(1) states:

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. If the ODP rejection is the only rejection remaining in the later-filed application, while the earlier-filed application is rejectable on other grounds, a terminal disclaimer must be required in the later-filed application before the rejection can be withdrawn.

In the instant case, the provisional nonstatutory obviousness-type double patenting rejection was (and remains) the only rejection remaining in this pending application, and application serial number 09/620,772 remains rejected on other grounds. Further, the Applicants respectfully assert that claims 1-2, 11-12, 14, 16, 23-26 and 35-36 of this application are patentably distinct from claims 1, 10, 17-18, 28, 36 and 44-50 of co-pending application 09/620,772. Hence, there was (and is) no need to disclaim the terminal portion of the instant application that would extend beyond the term of application serial number 09/620,772, and the Applicants did so in error.

Accordingly, pursuant to MPEP § 1490 (VII)(A), the Applicants hereby petition the Director for relief in the form of withdrawing, nullifying, or otherwise canceling the terminal disclaimer mailed on July 14, 2006.

This Petition is being submitted by facsimile, and thus Applicants request that any required Petition fees be charged to the Deposit Account No. 50-0383. Any other fees should be charged to Deposit Account No. 50-0383 as well.

Respectfully submitted,

By 

Name: Georgann S. Grunebach
Reg. No. 33,179

Date: September 28, 2006

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